

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION**

ANTHONY J. ZANGHI, KENNETH J. SOWERS, DOMINIC MCCUCH, JAMES HOHMAN, DARRELL SHETLER *on behalf of themselves and others similarly situated,* and UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO/CLC,

Plaintiffs,

v.

FREIGHTCAR AMERICA, INC., JOHNSTOWN AMERICA CORPORATION, and JOHNSTOWN AMERICA CORPORATION USWA HEALTH & WELFARE PLAN,

Defendants.

No.: 3:13-CV-00146

Electronically filed

DEFENDANTS' MOTION FOR LEAVE TO FILE EXCESS PAGES IN RESPONSE TO PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

DEFENDANTS' MOTION FOR LEAVE TO FILE EXCESS PAGES IN RESPONSE TO PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Defendants request leave to file excess pages in response to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction. The procedural and substantive complexity of this case, which involves two pending ERISA lawsuits and three predecessor class action lawsuits, requires the parties to address a broad range of issues. Moreover, Defendants require additional pages to respond to Plaintiffs' Memorandum in Support of their Motion for Temporary Restraining Order and Preliminary Injunction, which itself exceeded (with leave of this Court) the standard 25-page limit, as well as the hundreds of pages of record evidence plaintiffs compiled and submitted to the Court in connection with their Motion for Temporary

Restraining Order and Preliminary Injunction. For these reasons, Defendants respectfully seek leave to file a Brief in Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction that exceeds this Court's standard 25-page limit.

Dated: September 18, 2013

Respectfully Submitted,

/s/ Kirk Watkins

James Clark Munro II
Michael J. Parrish, Jr.
Ronald P. Carnevali, Jr.
SPENCE, CUSTER, SAYLOR, WOLFE & ROSE, LLC
AmeriServ Financial Building, P.O. Box 280
Johnstown, Pennsylvania 15907
T: (814) 536-0735
F: (814) 539-1423

Nancy G. Ross (*pro hac vice*)
Sam P. Myler (*pro hac vice*)
Kirk Watkins (*pro hac vice*)
McDERMOTT WILL & EMERY LLP
227 West Monroe Street
Chicago, Illinois 60606
T: (312) 372-2000
F: (312) 984-7700

**ATTORNEYS FOR DEFENDANTS FREIGHTCAR
AMERICA, INC., JOHNSTOWN AMERICA, LLC,
AND JOHNSTOWN AMERICA CORPORATION
USWA HEALTH & WELFARE PLAN**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system this 18th day of September, 2013. Any other counsel of record will be served by facsimile transmission and/or first class mail.

/s/ Kirk Watkins

Kirk Watkins

DM_US 45090356-2.082260.0018